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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,396	07/29/2003	Jeffrey L. Johanning	ADV08 291 CIP2	3972
7590	11/17/2006		EXAMINER	
Duane Morris LLP Suite 700 1667 K. Street N.W. Washington, DC 20006			PATEL, ASHOK	
			ART UNIT	PAPER NUMBER
				2879

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/628,396	JOHANNING ET AL.	
	Examiner	Art Unit	
	Ashok Patel	2879	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 August 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 17-38 is/are withdrawn from consideration.
- 5) Claim(s) 1-13 is/are allowed.
- 6) Claim(s) 14-16 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 21 August 2006 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's arguments filed 08/21/2006 with respect to claims 14-16 have been fully considered but they are not persuasive.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Hierholzer (USPN 2749461).

Hierholzer discloses a high intensity discharge lamp (Figure 1) including an outer lamp envelope (27), an arc tube (11), and a mounting structure (Frame including plates 32, 33) for laterally and axially supporting the arc tube within the outer lamp envelope.

As to the limitation "the improvement wherein the mounting structure weldlessly provides for limited axial movement of the arc tube to thereby reduce mechanical failure of the mounting structure when subjected to mechanical agitation", this limitation is functional in nature and is narrative in form and does not constitute/contribute a positive structure to the claimed device. Therefore, the Examiner does not give a

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patentable weight to the limitation "the improvement wherein the mounting structure weldlessly provides for limited axial movement of the arc tube to thereby reduce mechanical failure of the mounting structure when subjected to mechanical agitation". In order to be given patentable weight, a functional recitation must be expressed a "means" for performing the specified function, as set forth in 35 U.S.C. 6th paragraph, and must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. *In re fuller*, 1929 C.D. 172: 388 O.G. 279.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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5. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wimberly (USPN 6744187).

Wimberly discloses a lamp including an envelope enclosing a lamp stem assembly mounted at the opening at one end of the envelope, a lead (16) providing an electrical path between the stem assembly and a tube (14) through a reflector (24), and means (18) for electrically insulating the lead from the reflector, the insulating means includes aperture through which the lead passes.

Wimberly differs from applicant's claimed lamp device in that the lamp used in Wimberly's device is not a discharge lamp, as claimed by applicant. Further, Wimberly does not disclose the insulating means made of ceramic as claimed by applicant.

However providing either filament or discharge light source within the lamp is old and well known to those skilled in the art for emitting light from the lamp device. In light of this, it would have been obvious to one of ordinary skill in the art to replace the filament lamp with a discharge lamp for emitting the light.

Further, providing the insulating means of any suitable known material would have been obvious to one of ordinary skill in the art for holding the leads separate from each other or for keeping leads away from the reflector. In light of this, it

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would have been obvious to one of ordinary skill in the art to use any suitable material for the insulating means for holding the leads separate from each other or for keeping leads away from the reflector.

As to claim 16, applicant is claiming a second lead (other lead 16) providing an electrical path between the stem assembly and the tube through the reflector, and (the same) means (18) for electrically insulating the second lead from the reflector, the insulating means includes two spaced apart apertures, one of the leads passing through one of the apertures and the other of the leads passing through the other of the apertures.

Wimberly differs from applicant's claimed lamp device in that the ceramic used in Wimberly's lamp device is not a monolithic as claimed by applicant.

However, as mentioned earlier in this office action, providing the insulating means of any suitable known material would have been obvious to one of ordinary skill in the art for holding the leads separate from each other or for keeping leads away from the reflector. In light of this, it would have been obvious to one of ordinary skill in the art to use any suitable material for the insulating means for holding the leads separate from each other or for keeping leads away from the reflector.

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As to claim 15, applicant argues, at page 16 of the response, that Wimberly does not disclose the means 18 electrically insulating the reflector from the leads 16. This is not found persuasive since the insulating nature (property) of the means 18 (and also bridge 18) would insulate the reflector from the leads. Applicant further argues that Wimberly teaches that the reflector may be constructed from electrically insulating material. The Examiner does not disagree with applicant. However, this argument is moot since applicant claim 15 does not recite the reflector constructed from electrically a conducting material or an insulating material.

Applicant further argues at pages 16-17 of the response, that Wimberly teaches the reflector being supported by the filament bridge. As is shown from Figures 1 and 3, since means 18 (bridge 18) is in physical contact with the reflector 24, the Examiner takes the position that the means 18 (bridge 18), within the Wimberly's device, is also supported by the reflector.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this

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action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok Patel whose telephone number is 571-272-2456. The examiner can normally be reached on Monday-Thursday.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ashok
Ashok Patel
Primary Examiner
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